

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**FLOYD SEIBERT, individually, and as  
TRUSTEE FOR THE CENTRAL  
HOME CARE SERVICES, INC., and  
AFFILIATES 401(K) PLAN,**

**Plaintiff,**

**vs.**

**Case No. CIV-06-1330-F**

**(1) CENTRAL HOME CARE SERVICES,  
INC., and AFFILIATES 401(K) PLAN;  
(2) MATTHEWS BENEFIT GROUP,  
ADMINISTRATOR OF THE CENTRAL  
HOME CARE SERVICES, INC.,  
and AFFILIATES;  
(3) CENTRAL HOME CARE SERVICES, INC.;  
(4) EXTENDED CARE SERVICES OF  
OKLAHOMA, INC.;  
(5) CENTRAL OKLAHOMA CARE AT HOME, INC.;  
(6) CENTRAL TEXAS HOME HEALTH  
SERVICES;  
(7) CENTRAL TEXAS EXTENDED CARE  
SERVICES, INC.;  
(8) WESTERN MEDICAL SUPPLIES AND  
EQUIPMENT, INC.;  
(9) SECRETARY OF LABOR  
FOR THE UNITED STATES OF AMERICA;  
(10) JOHN HANCOCK LIFE INSURANCE  
COMPANY (USA),**

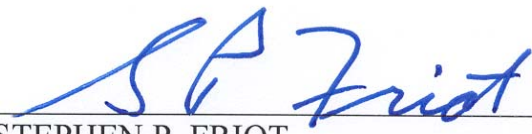
**Defendants.**

**ORDER DENYING MOTION FOR JUDGMENT**

Before the court is the Motion for Judgment (doc. no. 29) filed by Plaintiff, Floyd Seibert, Trustee for the Central Home Care Services, Inc. and Affiliates 401(K) Plan, on January 17, 2007, wherein plaintiff requests the court to enter default judgment against defendant, John Hancock Life Insurance Company (U.S.A.). Upon review of the motion, the complaint and the record herein, the court finds that plaintiff's motion should be and is hereby **DENIED**. Rule 54(c), Fed. R. Civ. P.,

provides that “[a] judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment.” Plaintiff seeks relief against defendant which was never requested in the complaint.

Entered this 18<sup>th</sup> day of January, 2007.

  
\_\_\_\_\_  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

06-1330p005.wpd